

**PUBLIC EMPLOYMENT RELATIONS BOARD
FOR THE STATE OF DELAWARE**

AMALGAMATED TRANSIT UNION,)	
LOCAL 842,)	
)	<u>ULP No. 02-12-372</u>
Petitioner,)	[Pay Period]
)	
DELAWARE ADMINISTRATION FOR)	
REGIONAL TRANSIT,)	
Respondent.)	

BACKGROUND

The Amalgamated Transit Union, Local 842 (“ATU”) is an employee organization within the meaning of the Police Officers and Firefighters Employment Relations Act 19 Del.C. Chapter 13 (“ACT”) specifically §1302(i). ATU is the exclusive representative for the bargaining unit consisting of operating and maintenance employees employed by the Delaware Administration for Regional Transit (“DART”) within the meaning of 19 Del.C. §1302(j).

State of Delaware, Department of Transportation and Delaware Transit Corporation (“DTC” or “State”) is a public employer within the meaning of §1302(p) of the Act, 19 Del.C. Chapter 13 (1986) (“Act”).

ATU and DTC were parties to a collective bargaining agreement which expired on November 30, 2002. ¹ Since the filing of this unfair labor practice charge on December 9, 2002, the parties successfully

¹ The Delaware Authority for Regional Transit (“Dart”) was created by the Delaware General Assembly on 1969 as a provider of public transit service. In 1994 the General Assembly created the Delaware Transit Corporation (DTC) to oversee DART and the operation and management of the public transit system within Delaware. Currently DTC is responsible for overseeing bus service along fixed routes throughout the State (Now “DART First State”) specialized paratransit for disabled, infirmed and elderly patrons (“DAST”); and rail commuter services.

concluded their negotiations of a successor collective bargaining agreement. The settlement did not, however, resolve this pending unfair labor practice charge.

DISCUSSION

The basis for the filing of this unfair labor practice charge is set forth in paragraphs 5 through 8, of the Charge, which provide:

5. In the expired agreement, Section 3 specifically requires DART to pay bargaining unit employees on a weekly payroll basis. During negotiations DART introduced proposals regarding the Union Security Clause, Section 3, of the collective bargaining agreement. Specifically, DART proposed a change in the payroll period and payday for bargaining unit employees from a weekly to a bi-weekly basis.

6. The parties have not been able to reach an agreement regarding the period within which bargaining unit employees are to be paid. The Union has bargained and continues to bargain in good faith with regard to the payroll period and payday covered by Section 3 of the expired agreement.

7. Despite the Union's continued efforts to reach an agreement on the payroll period issue, on or about December 1, 2002, DART unilaterally implemented a change to the terms and conditions of employment. Specifically, DART unilaterally implemented a change in the payroll and payday from weekly to a bi-weekly period by posting a memorandum indicating, effective December 1, 2002, the payroll period and payday will be changed to a bi-weekly basis. . . .

8. The subject of the payroll period and payday is a mandatory subject of bargaining. DART, by unilaterally implementing the changes described above to the payroll

period and payday at a time when the parties were engaged in negotiations over that subject, has failed or refused, and is failing and refusing, to bargain with the Union as required under 19 Delaware Code §1307(a)(1) and (5). As such, DART's conduct described above is in violation of 19 Delaware Code §1307(a)(1) and (5).

On December 24, 2002, the State filed its Answer to the Charge denying all of the allegations contained in paragraphs #5 through #8 of the Charge, as set forth above.

DETERMINATION

Construed in a light most favorable to the Charging Party, the pleadings constitute reason to believe that an unfair labor practice may have occurred.

The pleadings raise factual issues which can only be resolved on the basis of a factual record created by the parties. A hearing will be scheduled for the purpose of establishing a factual record upon which a decision can be rendered.

February 3, 2003
(Date)

/s/Charles D.Long, Jr.
Charles D. Long, Jr.
Executive Director